IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

WP(C).No. 14310 of 2006(C)

SC.599/2005 of SESSIONS COURT, THRISSUR
C.R.NO.6/05 OF PAZHAYANNOOR RANGE

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PETITIONER:

T.M.HAMEED, S/O.MAKKAR,
THEKKEPEDIKA HOUSE, ERNAD P.O. THRISSUR DISTRICT.

BY ADV. SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENTS:

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1. THE ASSISTANT EXCISE COMMISSIONER,
THRISSUR.

2. THE EXCISE INSPECTOR, PAZHAYANNOOR RANGE
PAZHAYANNOOR, THRISSUR DISTRICT.

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J

W.P(C).No.14310 of 2006

Dated this the 11th day of January, 2007

JUDGMENT

Against the petitioner, a final report has been filed by the Excise Officials alleging commission of the offence punishable under Section 55(a) of the Kerala Abkari Act. It is the contention of the petitioner that at any rate, the offence under Section 55(a) of the Kerala Abkari Act will not lie against the petitioner and even if all the allegations are accepted, only an offence triable by the Magistrate would lie against him under Section 63 of the Kerala Abkari Act.

2. The case has now been committed to the Court of Sessions. The petitioner has now appeared before that Court. Charges have not been framed. In these circumstances, I am satisfied that it is for the petitioner to raise his contention that no charge is liable to be framed against him under Section 55(a) of the Kerala Abkari Act triable by a Court of Sessions and charge for an offence triable by a Magistrate under Section 63 of the Kerala Abkari Act alone can be framed against him. The learned Magistrate must consider this contention at the stage of Section 227/228 Cr.P.C and take appropriate decision. I am not satisfied that the proceedings against the petitioner can be quashed even accepting the submissions of the petitioner.

3. This W.P(C) is, in these circumstances, dismissed, but with the above observations.

(R.BASANT, JUDGE)

rtr/-